

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARCUS JACKSON,

Petitioner,

v.

CASE NO. 07-CV-10550  
HONORABLE JOHN CORBETT O'MEARA

LINDA M. METRISH,

Respondent.

**ORDER DISMISSING CASE**

Marcus Jackson ("Petitioner"), a state prisoner presently confined at the Kinross Correctional Facility in Kincheloe, Michigan, has filed a memorandum of law in support of his *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his convictions for first-degree murder, assault with intent to commit murder, armed robbery, felon in possession of a firearm, and possession of a firearm during the commission of a felony which were imposed by the Wayne County Circuit Court in 2001. He has also filed motions for evidentiary hearing, for discovery of records, and to proceed *in forma pauperis* on appeal.

Petitioner has already filed a habeas action challenging the same convictions with this Court, which is pending before the Honorable Bernard A. Friedman. *See Jackson v. Metrish*, Case No. 06-CV-15464. Accordingly, the instant action must be dismissed as duplicative. A suit is duplicative, and subject to dismissal, if the claims, parties, and available relief do not significantly differ between the two actions. *See, e.g., Barapind v. Reno*, 72 F. Supp. 2d 1132, 1145 (E.D. Cal. 1999) (internal citations omitted). The instant action is duplicative of his

pending first habeas petition. In fact, it appears that Petitioner may have been attempting to file the instant pleadings as part of his original habeas action, but failed to include the original case number at the time of submission. In any event, because Petitioner challenges the same convictions in both petitions and raises similar claims, the Court will dismiss this second petition as duplicative. *See Harrington v. Stegall*, 2002 WL 373113, \*2 (E.D. Mich. Feb. 28, 2002); *Colon v. Smith*, 2000 WL 760711, \*1, n. 1 (E.D. Mich. May 8, 2000); *see also Davis v. United States Parole Comm'n*, 870 F.2d 657, 1989 WL 25837, \*1 (6<sup>th</sup> Cir. March 7, 1989) (district court may dismiss a habeas petition as duplicative of a pending habeas petition when the second petition is essentially the same as the first petition).

Accordingly, the Court **DISMISSES** the instant case as duplicative. This dismissal is without prejudice to the habeas petition filed as Case No. 06-CV-15464. The instant pleadings shall be filed as new pleadings in the pre-existing case.

**IT IS SO ORDERED.**

s/John Corbett O'Meara  
United States District Judge

Dated: February 13, 2007

I hereby certify that a copy of the foregoing document was served upon Petitioner on this date, February 13, 2007, by U.S. mail.

s/William Barkholz  
Case Manager